

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff-Respondent,
v.

Criminal Case No. 10-20014
Civil Case No. 15-12475
HON. DENISE PAGE HOOD

CHIRADEEP GUPTA (D-14),

Defendant-Petitioner.

**ORDER GRANTING COUNSEL’S MOTION TO WITHDRAW
AND DENYING APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES OR COSTS ON APPEAL**

I. BACKGROUND

On August 23, 2017, the Court entered a Judgment and Order Denying Defendant-Petitioner Chiradeep Gupta’s Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255. (Doc. Nos. 825, 826) In its Order, the Court declined to issue a certificate of appealability. (Doc. No. 825, Pg ID 9537-38) Gupta was represented by retained counsel during the § 2255 proceedings.

II. MOTION TO WITHDRAW AS COUNSEL

Gupta’s counsel moves to withdraw his appearance as counsel on behalf of Gupta indicating he was not retained for any other matter, other than the § 2255

proceedings. (Doc. No. 827) Gupta did not file any opposition to his counsel's motion.

The Local Rules, E.D. Mich. LR 83.25, provides that an attorney's appearance in a civil matter continues until entry of "a final order or judgment disposing of all claims by or against the party the attorney represents" or "a withdrawal or substitution order." E.D. Mich. LR 83.25(b)(1). Gupta has not contested his counsel's statement that counsel was only retained for the § 2255 matter. As noted above, the Court has entered a judgment and order dismissing Gupta's § 2255 motion. The Court will allow Gupta's counsel to withdraw because the Court has entered an order dismissing the § 2255 motion and Gupta has not filed an opposition to the motion.

III. APPLICATION TO PROCEED *IN FORMA PAUPERIS* ON APPEAL

Gupta also seeks to file an appeal without prepaying fees on appeal. As noted above, the Court declined to issue a certificate of appealability finding that the arguments raised in Gupta's § 2255 motion are without merit. (Doc. No. 825, Pg ID 9538) The Court finds that any appeal of the August 23, 2017 Judgment and Order would be frivolous and would not be taken in good faith. 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997)(overruled on other grounds by *Jones v. Bock*, 549

U.S. 199 (2007)). The Court denies Gupta's application to proceed *in forma pauperis* on appeal.

IV. CONCLUSION

For the reasons set forth above,

IT IS ORDERED that Attorney Jeremy Gordon's Motion for Withdrawal as Counsel (**Doc. No. 827**) is GRANTED.

IT IS FURTHER ORDERED that Chiradeep Gupta's Application to Proceed *In Forma Pauperis* on Appeal (**Doc. No. 828**) is DENIED.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: October 16, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 16, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager